EXHIBIT I

Case No. 21-CV-0817-TSZ

(Exhibit I to Mann Declaration)



Video Game Cheating
Expert Witness Report
of
Mr. Steven Guris
for
Perkins Coie LLP

Client Confidential

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Introduction

- 1. I have been retained as an expert by Bungie, Inc. ("Bungie") to provide my report and testimony in connection with the arbitration proceeding titled *Bungie, Inc. v. AimJunkies.com, et al.*, Ref. No. 5160000075 before Hon. Ronald E. Cox (Ret.) at JAMS.
- 2. I have been asked to provide my opinion regarding the video game industry, video game gameplay, and the impact of video game cheats on video games and the video game industry.
- 3. I have been asked to provide this expert report to lay out my opinions on the matter in dispute.
- 4. The opinions set forth in this report are based on my expertise related to video games and Bungie's *Destiny 2*, as well as my professional experience as an active investigator in digital forensics and cybercrime, and my review of the following documents:
 - o BUNGIE WDWA 0000469
 - o BUNGIE_WDWA_0000602
 - o BUNGIE_WDWA_0000606
 - o PDG_0048
 - o PDG_0049
 - o PDG 0050
 - PDG_0052
 - o PDG_0053
 - o PDG_0054
 - o PDG_0055
 - o PDG 0056
 - o PDG_0057
 - o PDG 0058
 - o PDG 0059
 - o PDG_0060
 - O HAHN 0000001
 - o HAHN_0000004
 - o HAHN 0000007
 - o HAHN_0000010
 - O HAHN 0000013
 - o HAHN_0000016
 - o HAHN_0000019
 - O HAHN 0000022
 - O HAHN_0000025
 - o HAHN 0000028
 - o HAHN_0000031
 - O HAHN_0000035
 - O HAHN 0000038

- Rogers, Everett M.; Larsen, Judith K., Silicon Valley Fever: Growth of High-technology Culture, 1985.
- https://www.marketwatch.com/story/videogames-are-a-bigger-industry-than-sports-and-movies-combined-thanks-to-the-pandemic-11608654990
- https://www.statista.com/statistics/499703/share-consumers-ever-play-video-games-by-age-usa/, Vorhaus Digital Strategy Study 2022, p. 91.
- https://www.statista.com/statistics/190225/digital-and-physical-game-sales-in-the-us-since-2009/
- https://www.trade.gov/ecommerce-frontline-social-media-forecast
- https://www.indeed.com/hire/job-description/community-manager
- o https://www.oxfordreference.com/view/10.1093/oi/authority.20110803100544310
- https://www.jstor.org/stable/j.ctv1hp5hqw.13
- https://www.bungie.net/7/en/legal/sla
- https://support.microsoft.com/en-us/topic/june-28-2022-kb5014666-os-builds-19042-1 806-19043-1806-and-19044-1806-preview-4bd911df-f290-4753-bdec-a83bc8709eb6
- https://support.microsoft.com/en-us/topic/july-12-2022-kb5015807-os-builds-19042-18
 26-19043-1826-and-19044-1826-8c8ea8fe-ec83-467d-86fb-a2f48a85eb41
- https://docs.microsoft.com/en-us/windows/security/identity-protection/user-account-c ontrol/how-user-account-control-works
- https://www.virustotal.com/gui/file/2abae185fc87476e00e45c7d3a171a4a2c0a57d714
 b03608dc566c988ca6ee48/detection
- https://www.virustotal.com/gui/file/f2c08cec764e85a42888250cf79747c47b3a7614199
 f2b4cba98b8745bb7749c/detection
- https://kotaku.com/diablo-immortal-p2w-pvp-broken-blizzard-rite-exile-1849355846,
 titled: "Diablo Immortal Player Says He Can't Get A Match After Spending \$100,000."

Qualifications

- 5. I am the Director of Threat Investigations of Unit 221B, a cybersecurity firm contracted by Bungie to investigate cheats and their developers.
- 6. Until my present appointment, which began August 1, 2022, I had been employed by Unit 221B beginning in 2020 as a Cybersecurity Analyst. From January 2022 until August 1, 2022, I served as the Lead Project Engineer for Networking Testing and Development and as a Senior Investigator within the Investigations division. From August 1, 2022 until September 1, 2022, I served as he Tactical Operations Manager for the Investigations, Network Testing, and Development branches of Unit 221B.
- 7. As part of my responsibilities for Unit 221B, I lead and conduct investigations into fraud, abuse, and other cybercrime; conduct and lead vulnerability assessments and penetration tests; and spearhead internal development of new software offerings.
- 8. I hold a Bachelor's of Science in Software Engineering from Kennesaw State University.

- 9. I have personally played countless hours of video games. I had been a player of Bungie's *Destiny 2* prior to my initial hiring by Unit 221B and continue to play *Destiny 2* in my personal time, with over 2000 hours of active play time currently applied to my account.
- 10. Through my experience and education, I am familiar with video game design, infrastructure, and play.

Compensation

11. I am being compensated for my time at a rate of \$750 per hour for time expended reviewing this matter and for providing testimony or other opinions. My compensation in no way depends on the outcome of this opposition.

Summary of Opinions

- 12. Bungie's *Destiny 2* is a first-person looter shooter massively multiplayer online game, extensively marketed through social media and other online mechanisms. Bungie actively participates in their player community through designated Community Managers, company-hosted streams, and other player outreach activities.
- 13. *Destiny 2* is frequently the subject of organic social media advertising by fans of the game and content creators, generally streamers, whose positive statements and feelings on the game provide incentive for more gamers to choose to play *Destiny 2*.
- 14. Destiny 2 is a live-service game, following the "Software as a Service" model. New content expansions and cosmetic upgrades are made available for purchase at regular intervals following the initial release of the game to allow for greater player investment and continued interest. This "microtransaction" model, common to many modern video games, relies upon this player investment and interest for continued revenue from the game; and requires significant ongoing investment by the studio to maintain.
- 15. Bungie has a security commitment to its players to provide a fair and balanced game environment where the success of a player is defined by the investment of their time and effort on skill-building and gameplay.
- 16. The presence of cheaters within this environment damages Bungie, poisons the well for players and content creators, and creates an unsustainable and unsafe environment for legitimate players. People who have invested their time, effort, and money into the game will be prevented from completing in-game goals and activities by the presence of these cheaters, driving down player engagement, new player acquisition, and long-term player retention.
- 17. Modern cheats for live-service games are also dangerous to the user. Installation instructions provided by cheat developers instruct users to perform unsafe and ill-informed configuration changes to their devices that immediately put them at higher risk of malware infection or data theft. Continued operation of a cheat exposes users to this risk whenever the cheat is run.
- 18. The AimJunkies *Destiny 2* cheat appears to interact with the *Destiny 2* game client in unauthorized ways.

19. The AimJunkies *Destiny 2* cheat provides cheaters with unfair competitive advantages against their fellow players in both competitive and cooperative gameplay. The continuing presence of such cheaters in a game environment creates negative feedback loops that discourage communication between players and game developers, disincentivizes digital content creators from featuring the game, and drives legitimate current and prospective players away from the game entirely – all of which cause harm to Bungie.

Background & Opinions

Background

General Definitions and Categorization

- 20. On a broad level, a video game can be defined as "any of various interactive games played using a specialized electronic gaming device or a computer or mobile device and a television or other display screen, along with a means to control graphic images." ¹
- 21. In a more colloquial sense, a video game may be thought of as any form of interactive entertainment operated via technology most commonly a personal computer, specific gaming console such as Sony's Playstation or Microsoft's XBox, or through a smartphone. The interactive nature of the entertainment is what truly defines a video game. This interaction distinguishes video games from traditional entertainment forms such as film and music, which are absorbed more or less passively.
- 22. The video game industry in the United States has rapidly become the most profitable entertainment industry, far outstripping both the film, music, and professional sporting industries in terms of profit. Even in 1982, the arcade video game industry made \$8 billion, more than the revenues of pop music (\$4 billion) and Hollywood films (\$3 billion).² The industry has only grown since 1982; during 2020, the video game industry reported revenues surpassing the combined revenues of the film industry and North American professional sports.³ 73% of Americans reported playing a video game of some variety in 2021.⁴
- 23. The broad category of video games may be subdivided into a variety of genres. Genres are based on gameplay elements, settings, or basic structural models that follow accepted standards of game play and style. These genres themselves may be further subdivided into more specific categories. For the purposes of this report, only genres and categories that apply to Bungie's *Destiny 2* are defined here.

https://www.dictionary.com/browse/video-game

²Rogers, Everett M.; Larsen, Judith K., Silicon Valley Feyer: Growth of High-technology Culture, 1985.

³https://www.marketwatch.com/story/videogames-are-a-bigger-industry-than-sports-and-movies-combined-thanks-to-the-pandemic-11608654990

⁴https://www.statista.com/statistics/499703/share-consumers-ever-play-video-games-by-age-usa/, Vorhaus Digital Strategy Study 2022, p. 91

- 24. Destiny 2 may be categorized as a "first-person shooter" (FPS), a "massively multiplayer online" (MMO) game and a "looter shooter."
- 25. In a "first-person shooter"⁵ (FPS), the player experiences the game environment from the first-person perspective; that is, through the eyes of their in-game character. Gameplay heavily features the use of virtual guns or other weapons as the primary method of play. Success within the game environment is defined by survival in simulated combat, either against computer-controlled enemies or against other players.
- 26. A "massively multiplayer online"⁶ (MMO) game is defined as "any online video game in which a player interacts with a large number of other players." MMOs generally require connection to a remote server for game operation. Social interactions and other community-driven features are often key components of an MMO game. Players may join together to form defined in-game groups, defined in *Destiny 2* as "clans." They find other players for cooperative or competitive play through "looking for group" (LFG) and matchmaking features.
- 27. Based on their specific styles of gameplay, or the "gameplay loop," FPS games may be then further subdivided into more specific categories. *Destiny 2* is termed a "looter shooter." One of the primary goals of *Destiny 2* players is the acquisition of new in-game items, most commonly weapons and armor. Within the *Destiny 2* environment, such items are subject to randomization of various attributes that may dramatically increase the item's effectiveness or value to the player. As a result, the pursuit of "loot," often by repeating activities over long periods of time, forms a core component of *Destiny 2* gameplay. The fact that "loot" is given to players as a reward for completion of gameplay objectives ("shooting"), is what defines *Destiny 2* as a "looter shooter."
- 28. With these definitions in mind, *Destiny 2* may be described as a "first-person looter shooter massively multiplayer online game." Players control their in-game characters from a first-person perspective while completing objectives, frequently based in combat, to gain loot, often with real-world friends or new social connections made during the course of *Destiny 2* gameplay. Players are given multiple options to compete against other players in player vs. player activities.

Genre & Destiny 2 Specific Terminology

- 29. While the above definitions and classifications may serve to give a broad overview of Bungie's *Destiny 2*, this report will make use of multiple genre-specific and game-specific terminology beyond the scope of the definitions above. These terms are defined below for clarity.
- 30. MMO games such as *Destiny 2* provide features that may be broadly divided into two categories: "player vs. environment" or "PvE" activities, and "player vs. player," or "PvP" activities. Players complete these activities using their "player character."
- 31. A "player character" is the model through which the player interacts with the game world. In *Destiny 2* and its player community, a player character is also referred to as a "Guardian," the term used within the narrative of the game to describe players. I will refer to player characters in

<u>https://www.dictionary.com/browse/first-person-shooter</u>

<u>https://www.dictionary.com/browse/mmo</u>

Destiny 2 using their in-game name, "Guardians." An image from Destiny 2 of a Guardian is shown below.



- 32. These player characters are distinct from "non-player characters," or "NPCs." The term NPC generally refers to any computer-controlled entity within a video game. Colloquially, NPCs more specifically refer to characters who interact with the player in some capacity. A NPC in a game may be an ally who assists the player, may assign the player activities, or may be an enemy of the player.
- 33. In "player vs. environment," or "PvE" activities, players fight either individually or cooperatively against NPCs. The primary gameplay loops of *Destiny 2* may be classified as PvE activities.
- 34. In "player vs. player," or "PvP" activities, players engage other players as opposed to NPCs. PvP activities may feature players competing to complete a specific goal often point-based and defined in-game or else engaging in direct competitive combat with one another. This variety of gameplay, taking place in an in-game arena of some variety in a "match," involves shooting the Guardians of other players to do "damage," a value defined by the gun a character is shooting and the player's accuracy. Once a player has been dealt a certain amount of damage, they are defeated and removed from the arena. Defeating another player typically awards points. *Destiny* 2 offers PvP activities for both 6 and 12 players at a time, split into equal teams.
- 35. The use of the term "map" in the context of this report should be understood to refer to the 3D landscape used as the setting for a game's action. In a PvP match, the map refers to the entire arena used for that match. For example, "from across the map" typically refers to an action that has occurred across a substantial distance. The ability to "see through the map" refers to an ability—provided by the AimJunkies *Destiny 2* cheat—to see through walls or other obstacles that would typically block a player's line of sight.
- 36. As players use the in-game weapons of a video game, they frequently have the ability to better aim their weapon by using that weapon's simulated sights. This ability, known as "aim-down-sights," or "ADS," refers to a player zooming in with their weapon as though looking down weapon sights or a scope. The camera will zoom in to provide a larger target and afford a player increased weapon accuracy. Examples of views showing a weapon without ADS (on the left) and with ADS (on the right) are shown below.





- 37. One of the most common features of FPS games such as *Destiny 2* is the inclusion of a common weak spot on enemies encountered by the player, including other players during PvP activities. As this weak spot is generally a target's head, a critical hit on such a spot is commonly referred to as a "headshot" by players, even if this weak spot is located elsewhere on an enemy's body. Within *Destiny 2*, some in-game weapons are capable of defeating an opposing player in a PvP match with a single headshot.
- 38. A "heads-up display," or "HUD," refers to graphical elements within the game that provide information to the player. A HUD typically includes information about a player's current health, equipped weapons and their remaining ammunition, an overview of their current ability status, or any other data deemed relevant by the developers of the game.
- 39. The HUD of a *Destiny 2* player also includes a "radar," a graphical element that grants a player information about the locations of other Guardians or NPC enemies, even if the player cannot directly see them. The radar available to players in *Destiny 2* does not provide the exact locations of other players or NPCs, but rather their general direction and distance relative to the player's Guardian. A screenshot showing the standard HUD from *Destiny 2* is shown below, with circles drawn around some of the elements described in paragraphs 38-39.



Game Devices and Digital Download

- 40. Modern video game players have a wide variety of options when choosing a technological method, or "platform," on which to play their games. Platforms fall into three broad categories: personal computers (PCs), dedicated game consoles ("consoles"), and mobile devices. Bungie's *Destiny 2* is available to players on PCs and consoles.
- 41. In this report, a PC refers to a desktop or laptop computer running the Windows operating system. As there are significant structural differences between the Windows operating system published by Microsoft, the macOS published by Apple for their Mac computers, and versions of the open-source Linux operating system, Mac and Linux computers are commonly considered a separate category from Windows-based PCs. For the purposes of this report, the term "PC" should be understood as a personal computer running the Windows operating system.
- 42. Consoles may be defined as "computer systems specially made for playing video games that are connected to televisions or other displays for video and sound." Consoles are purpose-built in order to provide players with a computer powerful enough to run modern games easily. Consoles generally feature an operating system unique to that family of devices, allowing software to be optimized by a variety of developers. Commonly owned consoles include Microsoft's Xbox, Sony's Playstation, Nintendo's Switch, or Google's Stadia. *Destiny 2* is available on the Xbox, Playstation, and Stadia.
- 43. The vast majority of modern games are delivered to consumers via digital download; many games no longer offer any variety of hardware-based (i.e. CD-ROM or DVD) installation mechanism. As of 2013, digital downloads accounted for more than half of all video games sold; as of 2018, over 80% of purchased games were provided to customers via digital download. Files required for game operation are downloaded and stored directly on a consumer's device, allowing for faster updates from developers, clearer communication between devices and game servers, and lower costs for developers. Purchases for these digital downloads are handled through a variety of marketplaces services depending on the platform.

Technical Terms

- 44. While full definitions of every technical aspect of video games and client/server interactions are beyond the scope of this report, I will refer to several key concepts which are briefly defined as follows.
- 45. An "instance" is a "zone to which access is limited to a player or group of players entering simultaneously and working together. Each instance is one copy of the zone in which the quests, enemies, items, events, etc are staged exclusively for the player or group accessing it, without interference from other player characters in the large online population of the game." For example, when players compete in PvP matches against one another they may be said to be within an instance. Players may not randomly join the match, and the instance's isolation prevents players not involved in the map from influencing it.

⁷https://www.dictionary.com/browse/game--console

<u>https://www.statista.com/statistics/190225/digital-and-physical-game-sales-in-the-us-since-2009/</u>

<u>https://www.dictionary.com/browse/instance</u>

- 46. The "game client," or, simply, the "client," refers to the locally stored and executed version of a game used by players to interact with the game world. In the case of Bungie's *Destiny 2*, along with the overwhelming majority of modern video games, the client is digitally downloaded and stored on a user's file system until loaded into memory for use.
- 47. "Game servers," or, simply, "servers," refers to the specialized networking devices used by the game developers to connect players to shared, multiplayer instances, facilitated by their game client. Servers provide information about the environment to players. Each game client reports the player's actions to the server, and the server updates all players with the results of those actions.
- 48. The "game state" refers to the positions and statuses of all game pieces and environmental features at any given time. In *Destiny 2*, the positions of each player, their velocity and trajectory, the direction they are facing, and their health are just some of the elements that comprise the game state. The server coordinates changes to the game state and communicates those changes to a player's client.
- 49. The protocols used by clients and servers to update and communicate this game state data may collectively be referred to as "netcode." This includes procedures for reconciling differences in game state as reported by different clients. Colloquially, players use netcode as an umbrella term for the overall consistency and responsiveness of the gameplay experience while playing online.

Importance of Viral Marketing

- 50. The use of social media for advertising and marketing represents one of the fastest growing and most powerful tools available to companies. The International Trade Administration of the U.S. Department of Commerce forecast a growth rate of 18.1% per year through 2026 for the global social media advertising segment.¹⁰
- 51. Recognizing its value, Bungie makes extensive first-party use of social media and viral marketing to promote *Destiny 2*. Reliance on social media and viral marketing is a widespread industry practice, but Bungie makes particularly effective use of these outlets. While Bungie maintains a footprint on all major social media platforms, including Facebook¹¹ and Instagram,¹² their strongest presence appears on Twitter and Reddit. On Twitter alone, Bungie operates a corporate account,¹³ a *Destiny 2*-specific account,¹⁴ and a third account solely for providing technical updates and support for the *Destiny* game environments.¹⁵
- 52. In addition to these first-party accounts, Bungie employs specific personnel known as Community Managers¹⁶ to interact with the *Destiny* community through repurposed personal accounts. These Community Managers write blog posts distributed through social media,

¹⁰ https://www.trade.gov/ecommerce-frontline-social-media-forecast

¹¹ https://www.facebook.com/Bungie/

¹² https://www.instagram.com/bungie/?hl=en

¹³ https://twitter.com/Bungie, 2.8 million followers

¹⁴ https://twitter.com/DestinyTheGame, 2.7 million followers

¹⁵ https://twitter.com/BungieHelp, 1 million followers

¹⁶ https://www.indeed.com/hire/job-description/community-manager

- respond to community concerns and statements, and generally act as liaisons between game developers and the fans of their game.
- 53. This kind of first-party social media marketing allows Bungie and other companies like it to interact directly with and promote content creators, influencers, and other members of their gaming communities. These interactions in turn provide players with a feeling of ownership and personal investment in the game, allowing them to feel seen by the developers, including Bungie, in a way unique to social media marketing.
- 54. Content creators and influencers who find satisfaction in these interactions provide immeasurable value to companies by continuing to produce content about the game. This content keeps discussion of the game in the public eye, recruits new players, encourages lapsed users to resume playing, and creates further connections to the game for active players through deepened interactions with these streamers. The most influential streamers for *Destiny 2* list over one million YouTube or Twitch.tv subscribers. Particularly popular videos or content may have an even broader reach.
- 55. While no concrete metrics exist to evaluate the value of such marketing, Bungie very clearly displays a great deal of skill and interest in promoting these creators and fostering an active streamer community. A perfect example of this may be seen in Bungie's biannual World First Day One Race event,¹⁷ in which a new six-player activity known as a "raid" is released into the game for the first time. The first team of six players to complete this activity within the first 24 hours of release are promoted heavily by Bungie through their social media arms, the winning team receives a variety of physical prizes, and other players who achieve a day one completion can earn coveted in-game rewards.
- 56. The success of this positive feedback loop between developers, fans, and content creators over social media is contingent upon the health of the game environment and positive player feelings toward the game. Strong player feedback and a tightly-knit community encourage content creators to continue promoting the game, which in turn encourages developers to take a more active role in community engagement and involvement. This creates a sense of positive ownership for fans, and the cycle continues. When negative third-party elements invade this space when players encounter cheaters acting independently of the game developers, for example the well is poisoned, and the feedback loop degrades. Angry fans are less likely to play the game, and developers are less likely to interact with the increasingly negative feedback. Interest in game content diminishes, and content creators feel less incentive to continue.

Game Ecosystem Investment

Game Setting and Suspension of Disbelief

57. While video games are by definition an interactive experience, they share many of the same conceits and structural concerns as other narratives. The effectiveness of the game turns on the concept of suspension of disbelief, "the concept that to become emotionally involved in a

¹⁷ https://www.youtube.com/watch?v=WiAd15wfVRo

- narrative, audiences must react as if the characters are real and the events are happening now, even though they know it is 'only a story.'" Films, literature, and art rely upon this suspension of disbelief to engage consumers; viewers who feel the world is real and alive are much more likely to remain invested. Successfully evoking suspension of disbelief is the sign of a compelling narrative or idea that consumers will continue to seek out.
- 58. In the interactive medium of a video game, the suspension of disbelief takes on an even greater importance for developers. Players who feel as if they are part of a dynamic world in which they have agency tend to invest more money and time in the game.
- 59. Video game developers therefore take pains to design and implement varied and detailed environments within the game in an effort to enhance the suspension of disbelief. These environments are often woven into the game's larger narrative in ways that resemble classical literary techniques in order to strengthen the perception that the player is part of a living world in which their choices carry weight.
- 60. To this end, video games may be set in nearly any genre or variety of location. *Destiny 2*, a work of science fiction, takes place centuries in the future in various locations across the solar system. Players are pitted against extraterrestrial enemies in the corridors of space ships, the ruins of Earth cities, or on an icy moon of Jupiter. *Destiny 2* Guardians, created by players as their in-game avatars, are immortal warriors of peerless combat prowess.

Long Term Player Investment

- 61. Suspension of disbelief through compelling narrative and well-designed environments is a useful tool for solidifying a player's emotional and financial investment. Yet while positive investment during a game's release cycle can build early awareness and consumer excitement about future property, this excitement will only last so long without additional investment. Players and video game media outlets quickly move to the next offering as the initial excitement fades.
- 62. The issue of long-term investment is increasingly addressed by adopting a responsive software-as-a-service model (SaaS), particularly by developers of MMO games like *Destiny 2*.
- 63. Games designed using this model are considered to be "living games." Very few elements are wholly static. Instead, they may be updated, expanded on, or removed by game developers for a variety of reasons. SaaS games receive frequent updates, or "patches," from developers. These may increase the game's stability or change its mechanics, improvements frequently referred to as "balancing." For example, the amount of damage a gun does to an enemy may be reduced or increased based on gameplay performance. The health of an enemy may be increased to add difficulty to the game experience. Bugs within the game may be resolved to increase the game's general stability.
- 64. The most basic versions of many SaaS games, including *Destiny 2*, are increasingly offered to consumers for free in an effort to draw in new customers. Known as "free-to-play," (FtP), this model allows players access to basic features or to an introductory storyline of a game in the hope that the player, after experiencing the game's core offering, will pay for additional content.

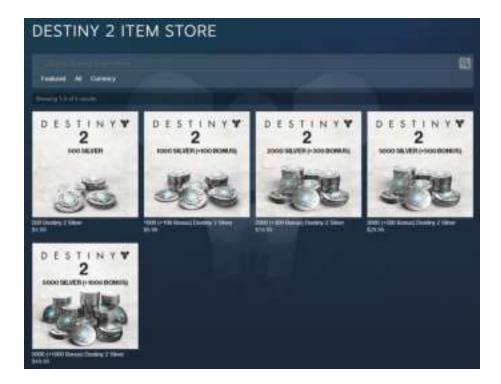
¹⁸ https://www.oxfordreference.com/view/10.1093/oi/authority.20110803100544310

- 65. Additional content not included with the original or "base" version of a game may be offered at any point within the game's life cycle. Some of this content may be offered as free additions, but additional content more commonly requires a user purchase. Large expansions to the game's mechanics, items, and environments may be offered to players as "expansion packs" or "downloadable content" (DLC). The prices for this content vary depending on the developer and level of change to the game itself.
- 66. Destiny 2 is free to play, but offers multiple content expansion packs to players for purchase. While the new features of a paid expansion may only be available to players that have purchased the upgrade, they do not usually offer a competitive advantage, or do so only in carefully considered ways. The reasoning for this is explained below in the "Competition and Fairness" section of this report.
- 67. FtP and SaaS model games generally employ release cycles of varying lengths for regular content upgrades, referred to as a "seasonal model." Large changes and updates are made on a regular schedule to encourage players to come back to the game over longer intervals. *Destiny 2* uses a seasonal model, with content typically being refreshed within the game every three months, with individual narrative story "beats" that become accessible on a week-by-week basis.
- 68. In a *Destiny 2* season, players are delivered a new narrative experience, multiple new activities, new items to earn, and, typically, an expansion of features or functionality. This cycle is designed to encourage a positive, shared narrative experience for all active players, to encourage players to continue or resume play, and potentially to spend more money at more frequent intervals. As with the content expansion packages, these features do not generally offer competitive advantages to the players who purchase them.

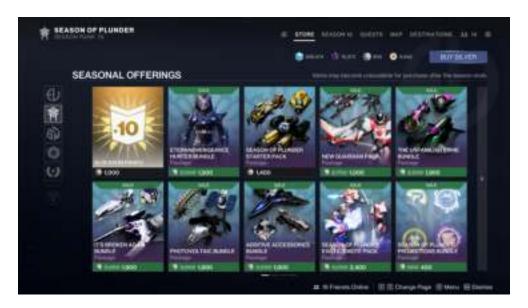
Microtransactions and Cosmetic Purchases

- 69. In addition to the release of DLC and seasonal content, *Destiny 2* also offers players an in-game store where, for additional cost, players may purchase cosmetic changes ("cosmetics" or "ornaments") for their characters' armor, weapons, tools, and vehicles. Each ornament is offered for a low one-time cost to players, a business model known as "microtransactions." The concept of this business model is clear; rather than relying on new sales of the game, players are given further opportunities to spend incremental amounts on an at-whim basis.
- 70. Almost universally, these microtransactions are made within the game environment itself with a "premium currency" separate from the usual items and currencies of the game. While this currency may be earned in-game in some cases, its "premium" status derives from its ability to be purchased with real-world money. Cosmetic microtransactions within the game are listed in this currency, which may be purchased by players in packs of varying sizes and prices. Discounts are generally offered to players who purchase more premium currency in a single transaction.
- 71. Bungie's *Destiny 2* uses the premium currency "Reef Silver," or, simply, "Silver." Within *Destiny 2*, Silver is only obtainable by purchasing packs of the currency from the relevant platform store. For example, on the Steam platform for PC, *Destiny 2* has the following Silver packs available for player purchase:

¹⁹ https://www.istor.org/stable/i.ctv1hp5hgw.13



72. After purchasing one of these packs, the amount immediately becomes available in that player's in-game account balance. As seen in the image below, taken from the in-game *Destiny 2* store, the premium currency can be redeemed in-game to obtain levels, cosmetic ornaments, or other player items or attributes.



73. Players within *Destiny 2* are offered a variety of cosmetic microtransactions for purchase, with new cosmetics being added to the in-game store on a regular basis. These cosmetic offerings encourage players to routinely purchase bundles of the in-game premium currency and provides the developers a consistent revenue stream beyond the initial release of a game, which in turn

funds the continued development of compelling content that encourages players to invest more deeply in the game. Players who make these purchases tend to be more loyal to the game, to feel pride and a sense of ownership over their well-appointed avatar, and have a continued desire to engage with the game's ongoing narrative and community of other players.

Security Relationships

- 74. In multiplayer games that offer competitive play against other players (PvP play), video game developers have a clear interest in promoting fairness within the game.
- 75. In the context of PvP play, fairness may be thought of as supplying a level starting position for all players. No player should be seen to have an immediate advantage over another because they have spent more money. Such games develop a reputation as "pay-to-win" games, where players who have spent more real-world money have an overwhelming advantage over those who have not. In *Destiny 2*, select abilities and exotic weapons are locked behind purchase of expansions, but their efficacy is balanced to avoid creating a "pay-to-win" environment.
- 76. Competitive games strive to avoid a "pay-to-win" impression, as these games tend to drive players away from the game environment. Only a small subset of players will have resources to buy every upgrade, meaning that the average player competing against them will always be at a disadvantage. In a race between a high performance sports car and a family minivan, the sports car clearly has every advantage over the minivan, and will almost certainly win the race. Why would the driver of the minivan agree to the race in the first place? This is why developers are careful not to include goods that confer competitive advantages in upgrade packages.
- 77. Game developers have a clear incentive then to provide each player within a multiplayer environment a level playing field independent of that player's financial commitment. There is an implicit understanding between developer and player that the developer will create, promote, and maintain the idea that a player's skill is what defines their competitive success, not the money they have paid.
- 78. Competitive video games, including *Destiny 2*, enforce this principle in the agreements each user must sign, typically referred to as an end-user license agreement (EULA), limited software license agreement (LSLA), or terms of service (ToS). The *Destiny 2* LSLA itself states that users may not "hack or modify the Program, or create, develop, modify, distribute, or use any unauthorized software programs to gain advantage in any online or multiplayer game modes." The document further notes that violation of any of its clauses entitles Bungie to suspend or ban the account found to be in violation of the ToS, and to take any further remedies available and deemed appropriate.

²⁰https://kotaku.com/diablo-immortal-p2w-pvp-broken-blizzard-rite-exile-1849355846, titled: "Diablo Immortal Player Says He Can't Get A Match After Spending \$100,000."

²¹ https://www.bungie.net/7/en/legal/sla

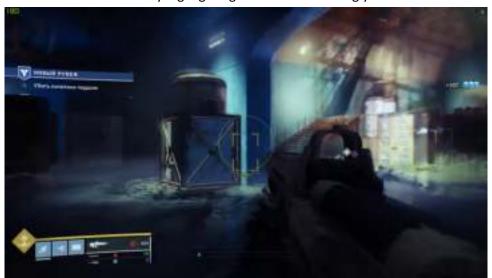
Cheating in Video Games

- 79. Cheats for live-service online multiplayer games, like *Destiny 2*, are developed by third-party actors, like Aimjunkies, who intend to profit by offering users of the cheat unfair and unauthorized advantages in a video game.
- 80. Cheats sold by AimJunkies and similar agents constitute unauthorized third-party manipulation and/or copying of a video game company's software that circumvents' the video game company's protection measures designed to prevent that manipulation or copying (and is advertised to do so), introducing features that are not foreseen by the games' developers, and are detrimental to the game as a whole.
- 81. Cheats for live-service online multiplayer games are generally only accessible to paying customers of the cheat developer or distributor, and often require a monetary subscription to their provider for continued functionality.
- 82. Cheats for live-service online multiplayer games are frequently intended for use within a shared online environment with potentially thousands of other players.
- 83. Cheats for live-service online multiplayer games are frequently advertised using highlight videos of the cheat in action against unsuspecting players of the game.
- 84. Cheats for live-service online multiplayer games, including the AimJunkies cheat, typically require users to disable system security protections. These protections are there to prevent malicious programs from accessing core operating system components that can be used to take over a system. Software installation does not normally require the disabling or removal of such protections. However, as the cheat must inject itself into low-level system processes to circumvent anti-cheat measures, both native and third-party antivirus software frequently blocks the cheat from download or installation. When users disable these protections in order to cheat, they also render their computers susceptible to cyberattacks. If a cheat developer decides to use their access for their own ends, consumers will not have standard protections in place. Almost universally, cheat installation instructions instruct users not just to disable, but to remove entirely any installed antivirus software from their computer. Native features such as Microsoft's Windows Defender must be disabled from an administrator account. All firewalls must be uninstalled and removed entirely, or else disabled from an administrator account. Users must enter their computer's BIOS, the most basic and essential firmware typically packaged with their motherboard, and disable key stability and security features.
- 85. As a result, modern cheats are frequently flagged by antivirus software and threat intelligence vendors as malware. While the cheat itself may not execute ransomware or steal a user's data, simply installing it according to the cheat developer's instructions opens the user's computer to the possibility of immediate and catastrophic attack.

The Anatomy of a Modern Cheat

Relevant Terminology

- 86. The success of modern cheats is a function of the quality and quantity of features they offer potential customers. Often, these features are described with slang, jargon, and acronyms that do not provide any information about how they actually work. Some cheat features and their functionality are described below.
- 87. One of the most common features sold by cheat developers is the classic "aimbot." This cheat functionality automates the movements of a player's Guardian as they attempt to aim their weapon at a specific target. An aimbot is typically configured to snap to an opponent's head when the player goes into ADS. The cheat confers perfect accuracy on the Guardian, giving them the ability to score headshots with every shot to rapidly eliminate opponents.
- 88. A wide range of cheat functionality may be defined under the category "extrasensory perception," or "ESP." ESP functionalities provide data to the cheating player about the game state that would normally be hidden to them, such as the locations of other players behind walls, the state of another player's health, or the status of their abilities.
- 89. The most common ESP feature built into modern cheats is the "wallhack," the ability to see through opaque objects such as walls. Cheats will typically highlight another player's Guardian's exact location when line-of-sight is obstructed. Wallhacks is also used as a generic slang term for the ability to see through the map. While some games, including *Destiny 2*, grant this ability to players under certain constraints, a cheat wallhack grants this information without the conditions, limitations, or structures imposed by the game's developers.
- 90. The image below, taken from an AimJunkies promotional video for their *Destiny 2* cheat, demonstrates this functionality well.²² In the image below, although the NPC enemies should be obscured from the view of the player by pillars and other objects, the AimJunkies cheat identifies the location of the enemies by highlighting their locations using yellow boxes.



²² BUNGIE_WDWA_0000469

- 91. With these definitions in mind, a general description of the technical operations of a modern cheat may be provided. This description must begin with several caveats, however.
- 92. I have personally participated in the acquisition, review, and analysis of multiple cheats for *Destiny 2* throughout the course of my work. This includes de-compilation, or unpacking, of cheat executables for code analysis and potential reverse engineering.
- 93. While I have examined other cheats for *Destiny 2*, it does not at present appear to be possible to directly examine the *Destiny 2* cheat produced and sold by AimJunkies and my understanding is that the Respondents in this arbitration have not produced a copy of the cheat.
- 94. However, I have reviewed and analyzed footage of the AimJunkies *Destiny 2* cheat in operation in promotional videos that I understand were captured and archived for the purpose of this arbitration.
- 95. Because of the apparent functionality of the cheat itself represented in cheat footage, and the similarity of the AimJunkies cheat loader to comparable cheats, I am able to make reasonable inferences about its operation.

Cheat Loader Download and Installation

- 96. Cheats for *Destiny 2* are distributed by means of a specialized program called a "loader." The loader is a program that authenticates the cheat user, validates their purchased license, downloads the cheat itself, and injects that cheat into Microsoft Windows system libraries and/or into the game client module.
- 97. For the AimJunkies *Destiny 2* cheat, this loader is first downloaded by a user immediately after the purchase of a cheat from the AimJunkies website. The loader represents a serious threat to users who follow AimJunkies' instructions.
- 98. After purchasing an AimJunkies cheat and downloading the loader, AimJunkies provides the cheat user a how-to guide for installation²³ through their forums. These instructions direct the user to perform several highly unsafe actions on their PC actions that any reasonable person should immediately reject. Samples of these instructions were taken from the AimJunkies website in early September 2022 and are provided below.
- 99. The process described in these instructions is potentially highly dangerous to the user as it involves disabling or creating exceptions in antivirus and firewall services, disabling Windows security controls, and granting the loader full administrative rights to the user's device. A user following these instructions potentially opens themselves to ransomware, data theft or loss, and any manner of cyberattack.
- 100. In their installation instructions, AimJunkies' users are directed to disable the User Account Control (UAC)²⁴ features also packaged with all current Windows operating systems. UAC features prompt the user for confirmation before any major changes may be made to the settings, configurations, or installed applications of an operating system. As a result, UAC

²³https://forum.aimjunkies[.]com/f139/read-thread-just-bought-cheat-134981/

²⁴ https://docs.microsoft.com/en-us/windows/security/identity-protection/user-account-control/how-user-account-control-work

features function as a strong defense against malware infection. Disabling UAC allows any program, including, for instance, the AimJunkies *Destiny 2* cheat, to make administrative changes to the device – and to do it without the user's knowledge.



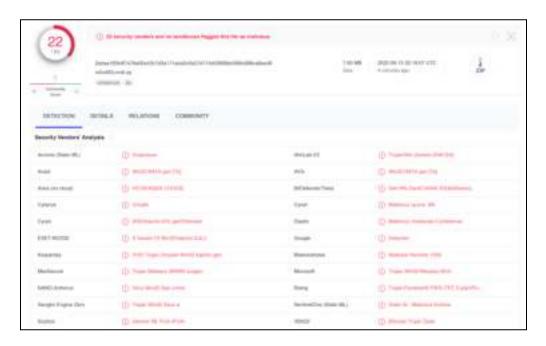
101. In the final step of the loader installation instructions, AimJunkies provides a note about third-party software that says, "AimJunkies only supports using Windows Defender/Firewall." Since what the user has actually done is manually created exceptions for the Aimjunkies loader through these services, a more accurate statement would be, "AimJunkies only provides instructions for evading Windows Defender/Firewall." AimJunkies then provides a list of third-party security software that "have caused known issues with our loader/cheat, please disable or uninstall them if you run into issues using the loader/cheat." This list includes several major security software vendors as well as anti-cheat software used by game developers.



102. On September 15, 2022, I performed static analysis on the AimJunkies cheat loader. I acquired the loader from their website as a compressed .zip archive and used the industry standard malware analysis platform VirusTotal for the analysis.²⁵ The archive contains two files: a .cfg configuration file used to define settings and other variables for installation, and a .exe portable executable file, which appears to be the AimJunkies loader itself. The archive in its compressed form and the two files it contains were each analyzed independently. Note that this loader is not the same thing as the cheat software specific to *Destiny 2*, and the functionality of the loader

²⁵https://www.virustotal.com/

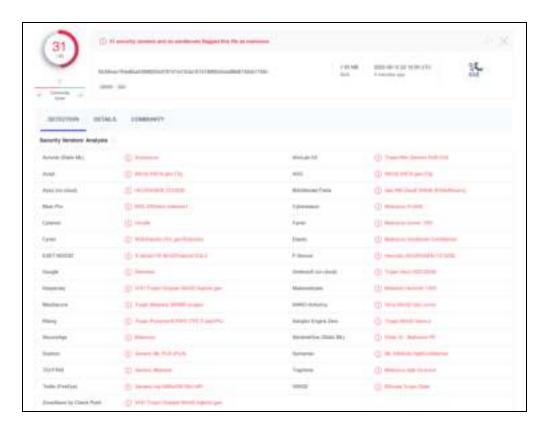
- appears limited to facilitating the operation of game-specific cheat software modules on a user's computer.
- 103. Static malware analysis examines suspect resources, in this case the .zip archive, the .exe, and the .cfg configuration file, in their at-rest state. Programs are not executed, and no installation occurs. The general behavior and characteristics of the file may be gathered in this analysis, as well as limited data about functionality and system interaction based on code decompilation.
- 104. Dynamic malware analysis involves executing the suspect resource and observing the resulting behavior. Dynamic malware analysis is typically conducted using debugging, monitoring, and logging tools to monitor system-wide effects of any executed malware.
- 105. One of the major strengths of the VirusTotal platform is its aggregation of analysis and assessments of potential threats from a wide range of vendors, including Microsoft, Google, Malwarebytes, Bitdefender, and many others. This aggregation helps avoid false positives potentially given by a single service or tool, and provides a more comprehensive understanding of the potential threats posed by an inspected resource.
- 106. The compressed .zip archive used to download the loader from the AimJunkies website is flagged as potential malware by 22 vendors.²⁶



107. The AimJunkies loader executable stored within this archive is flagged as potential malware by 31 vendors.²⁷

²⁶ https://www.virustotal.com/gui/file/2abae185fc87476e00e45c7d3a171a4a2c0a57d714b03608dc566c988ca6ee48/detection

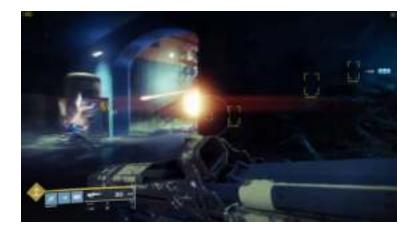
²²https://www.virustotal.com/gui/file/f2c08cec764e85a42888250cf79747c47b3a7614199f2b4cba98b8745bb7749c/detection



- 108. The configuration file stored within the downloaded archive did not independently receive any flags as potential malware.
- 109. Detections by these vendors do not conclusively indicate that the analyzed resource is or is not malware. Detection criteria are specific to the vendor providing the detection, but commonly involve decompilation of submitted resources for static analysis as well as execution of resources where possible for dynamic analysis. From this combination of analysis methods, the behavior of a potential piece of malware may be observed and classified.
- 110. Therefore, while the VirusTotal detections do not definitively identify the AimJunkies loader as traditional malware, they do clearly show that the way the loader behaves when it is active on a user's device is very similar to the behavior of traditional malware, and may be used to facilitate the installation and operation of malware. These detections are also the probable reason for AimJunkies' instructions to add exceptions to or disable security features in advance of loader installation. Leaving these features untouched would almost certainly result in the downloaded .zip archive and the loader inside it to be quarantined and removed from the device.
- 111. Finally, even if the AimJunkies loader itself is not malware, and does not directly harm a user or their device, it represents a clear and present danger to the user the moment it is successfully downloaded and installed even on a USB flash drive, as AimJunkies suggests. Installing the Aimjunkies software according to the vendor's instructions immediately leaves the user's computer vulnerable to infection by viruses, trojans, and ransomware. In a potential worst-case scenario, the cheat publishers themselves would be able to gain full administrative access to a user's computer with trivial effort.

General Cheat Operation

- 112. Microsoft Windows has a set of core libraries that contain the code for the basic actions the operating system may perform. For example, a system library can contain the functions that read from a file, that register mouse or keyboard input, or that send data over the network. One way for cheat software to function requires the cheat process to inject itself, or "hook," into one of these basic actions. When the *Destiny 2* game client attempts to perform a modified system action, it causes the installed cheat to execute as well. Cheat loaders need to be run with administrative access in order to hook into system libraries. Another way for cheat software to function is for the cheat process to inject itself or to "hook" into the game client process. Video game developers use numerous techniques to block the manipulation of system core libraries, and cheat software must circumvent those protections in order for the cheat software to function.
- 113. The *Destiny 2* program resides on disk before it executes. When launched by the user, the program then copies itself into memory. Each program has its own designated space in memory, and programs typically cannot access the memory space of another program. However, system libraries are considered to be trusted, and, because the injected cheat is hooked to an action in the system library, it, too, gains access to the *Destiny 2* disk space. When the *Destiny 2* client program calls the function that the cheat is hooked to, the cheat executes with the ability to read and modify *Destiny 2* memory.
- 114. As described in Section 48, each *Destiny 2* player has a local copy of the game state. This game state contains all of the information available to the player through in-game displays, as well as information that is meant to be hidden from the player. The game client determines what information to provide to the player. For example, the game client must know when another player is on the other side of a wall even if the player cannot directly see them. The game client allows the player to see the wall, but not the player on the other side of the wall, intentionally obscuring that information from the player. However, a cheat like AimJunkies' can read this information out of the game client's memory and display it to the cheater to grant an advantage.
- 115. The cheat can then project graphical elements on the visual display of the *Destiny 2* program containing this information. This type of display modification almost always requires that the cheat software hook the game software's rendering functions. As seen in the image below, this commonly includes highlighted boxes that show the locations of other players' Guardians, even when the cheating player's Guardians should not be able to see them.



- 116. The ability to know the location of other players' Guardians when they should be hidden from sight provides a significant and fundamental advantage to the cheating player. For instance, the cheater gains the element of surprise over the non-cheating player and has the ability to shoot first, which is essential in a first-person shooter.
- 117. Cheats may also manipulate the client to simulate user inputs, or even perform game actions directly. The aimbot functionality provided by the AimJunkies *Destiny 2* cheat appears to read the positions of other players or NPC enemies from the client's game state data and then automatically moves the player's Guardian to aim perfectly at the target's head for a guaranteed headshot critical hit.
- 118. For example, in the case of an aimbot, the AimJunkies cheat appears to read the relative locational data of opposing Guardians from the game client's data on the current game state. The cheat then uses this data to determine what mouse movements would be required for the cheater to register a headshot critical hit on their target. The cheat then uses this data to instruct the cheater's computer that this movement has been made as a simulated input separate from the cheater's own mouse movements. The computer receives this instruction from trusted system functions, and therefore passes this instruction to the game client as legitimate input on the part of the cheater. The game client, trusting these instructions from the computer, receives this input and performs the corresponding actions.
- 119. Again, this cheat appears to operate by reading data from the *Destiny 2* memory and accordingly manipulating the user's device.
- 120. Aiming is a game skill typically honed over the course of years. It is one of the fundamental ways *Destiny 2* players compete with one another. Skilled players can perform incredibly precise movements to hit difficult shots, but players using aimbots can obtain perfect accuracy with the click of a button. By removing the skill element from this core game mechanic, cheaters degrade the competitive spirit that draws many players to *Destiny 2*.

Game Product Devaluation

- 121. The presence of cheaters within a game environment poisons the well for legitimate players and devalues the larger ecosystem built up around an online live-service multiplayer game such as *Destiny 2*.
- 122. The presence of cheaters within this ecosystem has other knock-on effects. Cheaters produce negative reactions from the community on social media and discourage content creators from featuring the game on streams and recorded video. This negative reaction also disincentivizes developers from community interaction, which in turn leads to angrier fans. The social media feedback loop becomes a vicious circle.
- 123. Destiny 2's success is defined by aspirational and difficult content, or "endgame" content, that players are intended to enjoy through hundreds or thousands of hours to come. This content is accessed typically by players who have invested significant amounts of time and money in their characters, and who frequently have worked hard to improve their skill at the game. Cheating allows players to skip this investment and immediately be more successful than any other player.
- 124. Even where a cheat developer's customers only make up a small fraction of the game's player community, their effect on the community is significant. For instance, in a live-service online multiplayer game like *Destiny 2*, retention of invested players is paramount. Competitive PvP and other endgame activities concentrate invested players at the highest levels, making it nearly inevitable that players who have invested the most time for skill building within the game will encounter cheaters more frequently than the rest of the player community. If these players are blocked from completing endgame activities by constant interactions with cheaters, they will choose to invest their time and money elsewhere. Those high-level players are often a large driving force of the popularity of a game, and when they leave a game, its popularity (including player count and social media presence) drops as well.
- 125. Cheating has also given rise to cottage industries built around online games by third parties, which may collectively be referred to as "boosting services." Boosting services provide a shortcut to success by fraudulently logging into another player's account, or transferring items to a player in exchange for real-world money. The scale of these boosting services is enabled by access to cheats, which allow these boosters to provide returns to their customers rapidly and move on to the next order. In its purest form, paying for a boosting service is paying for someone else to cheat for you.
- 126. When legitimate players of *Destiny 2* are forced into interactions with cheaters of any variety, the game quickly begins to lose value for them. The highest tiers of play and reward become inaccessible, and continue to grow more inaccessible as players avoid the game out of fear and disgust when they encounter cheaters. Unimpeded cheat software represents a fundamental shift in the end-state of the game, with spiraling consequences that threaten the health of the game itself, causing harm to Bungie.

Conclusion

- 127. Bungie's *Destiny 2* game is buoyed by an active and engaged player community that participates in organic social media marketing and thrives on content from creators who promote *Destiny 2* to them and for them.
- 128. This engagement relies upon the healthy and fair in-game environment Bungie provides, an environment which ensures that player success is defined by skill and dedication to the game. Bungie has a clear security commitment to their players to maintain this environment.
- 129. The presence of cheaters within this environment damages Bungie and devalues the game for everyone involved. Fans are unhappy, unhappy fans discourage content creators from featuring the game, and developers are less likely to engage with the community.
- 130. Cheaters seek to "pay-to-win," bypassing skill-building and time investment by purchasing unauthorized third-party software to ensure their success.
- 131. Cheat software threatens users. Vendors instruct users to disable security features or otherwise block them from interacting with their software, laying them open to attacks by viruses, trojans, and malware. A wide array of security providers detected the AimJunkies cheat loader as potential malware.
- 132. Cheat software appears to interact with the *Destiny 2* game client in unauthorized ways to provide cheaters competitive advantages against legitimate players.
- 133. The continued presence of cheaters in the *Destiny 2* game environment devalues the game by preventing legitimate players from achieving endgame goals that reflect their personal investments of time and energy and money. Dissatisfied players will leave *Destiny 2* and spend their time and money elsewhere, which harms Bungie.



Image of a *Destiny 2* Guardian



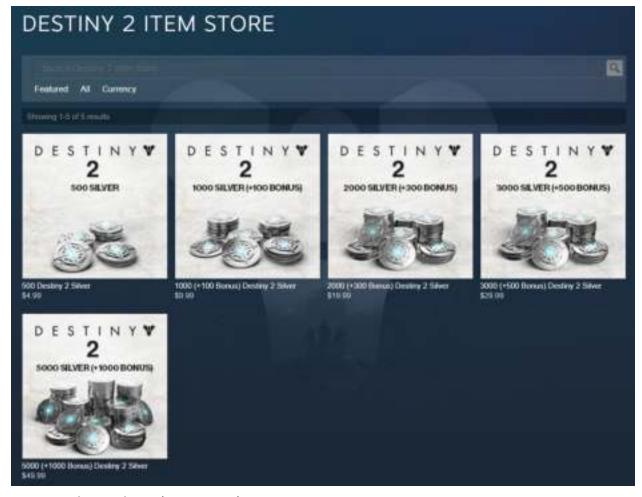
Aiming without looking down gun sights



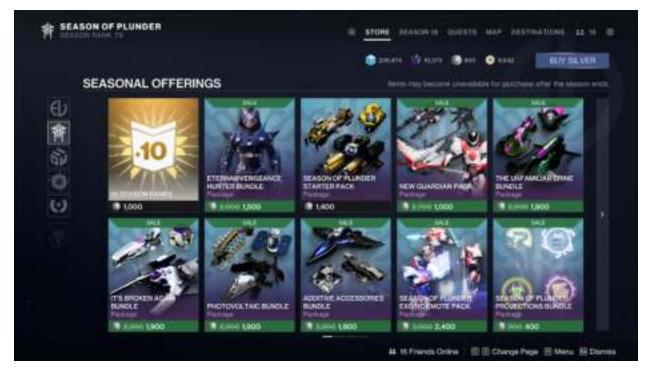
Aiming down sights (ADS)



Destiny 2 HUD Elements



Destiny 2 Silver Packages (Steam Store)



Destiny 2 in-game store

Download & Extract the Loader onto the USB Flash Drive

- Go to https://forum.atmunices.com/loader_download chp This will download the loader. (Windows will automatically download it to your "Downloads" directory unless you changed the default download location.
- Find the downloaded loader file, it will be a ZIP file.
- Extract the contents of the ZIP file to your LISB drive. (There should be two files with the same random name, an EXE file and a CFG file)

Windows Firewall - Add the Exception **DO NOT DISABLE

- Open Windows Defender by searching for "Windows Security" in the start menu and citcking on the result.
- . Click on the "Firewall & Network Protection" option
- The above action will take you to the Firewall & Network Protection screen. Here, click on the "Allow an app through firewall" link.
- A window will pop up, click on "Change Settings", then click on "Allow another app" button.
- A window will pop-up, click on "Network types" and select private and public then bit OK. Next use the browse button and browse to the loader file, click open.
- . Click the "add" button.
- Close the application.

Disable MS Game Bar

- Open Game Mode by searching for "Game Mode Setting" in the start menu and clicking on the result.
- . On the left pane, click Xbox Game Bar
- Use the loggle switch to turn it off.

Disable UAC

- . Go to Control Panel and go to "User Accounts".
- Go to User Accounts.
- Change Liser Account Control Settings, move the slider all the way to the bottom and click "Ok" to apply this setting.

Disable Overlays

- *** Please note, some programs will continue to run as a service when the process is killed/disabled. You may need to disable the service itself. Note: list below are just examples.
- Disable all overlays in game clients (Steam, Origin, Epic, etc.);
- Disable all programs that may have an overlay (Discord Overlay, Razer Synapse, Fraps, DxTory, Teamspeak Overlay, MSI AfterBurner, Riva Tuner, Raptir, AMD/Radeon Overlay.

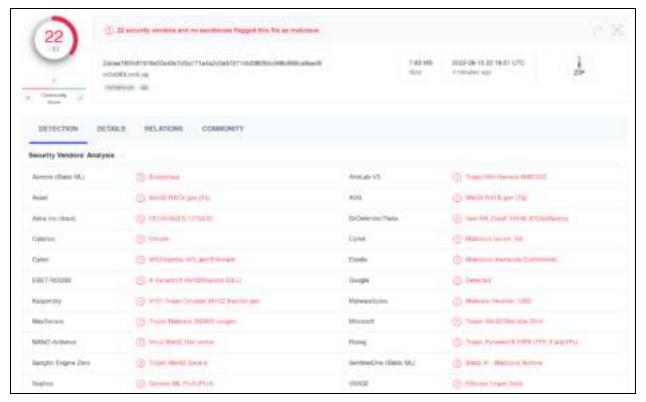
Nivida Shadowplayetcj

- Disable any Software for Peripherals (Razer synapse, Roccat, Corsae, Steelseries, Logitech, ICUE, NZXT CAM, CPU-Z-GPU-
- Z, Alda64, Speccy, Hardinfo, AgaueEye, CPU Spy, etc...)

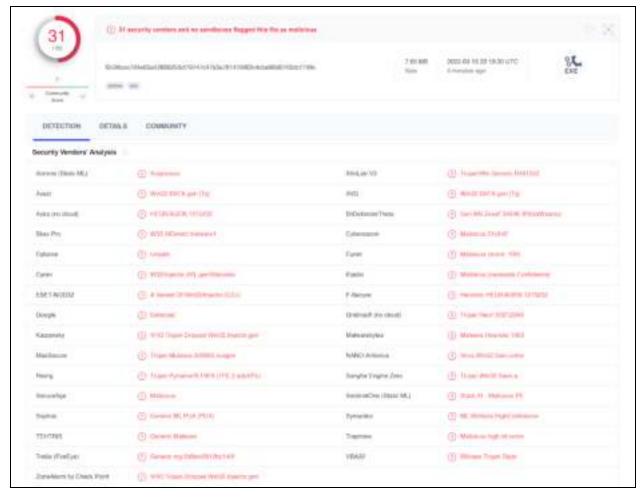
AimJunkies installation instructions (1 of 2)



AimJunkies installation instructions (2 of 2)



VirusTotal Detections on AimJunkies loader (compressed archive)



VirusTotal Detections on AimJunkies (Loader executable)